



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

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**MEMORANDUM**

**TO:** **BRIAN MCCORMICK**  
Regulatory and Manual Section Manager  
Department of Medical Assistance Services

**FROM:** **REATHA B. KAY**  
Special Counsel to DMAS

**DATE:** July 1, 2005

**SUBJECT:** Proposed Regulations concerning Elderly or Disabled with Consumer Direction Waiver ("ED-CD Waiver")

I have reviewed the attached proposed regulations concerning the implementation of DMAS' ED-CD Waiver and repeal of the regulations governing DMAS' Elderly and Disabled Waiver and DMAS' Consumer-Directed Personal Attendant Services Waiver.

Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. The amendments to the regulations will enable the Director, in lieu of the Board of Medical Assistance Services, to implement the ED-CD Waiver and repeal the regulations for the Elderly and Disabled and Consumer-Directed Personal Attendant Services Waivers. The changes were first made by the promulgation of emergency regulations, and were approved by this Office in a memorandum, dated January 4, 2005.

The authority for the previously promulgated emergency regulation is the 2003 Acts of Assembly, chapter 460. These regulations will ensure that DMAS complies with this

Brian McCormick

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mandate of the General Assembly.

If you have any questions or need any additional information, please feel free to call me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment